

Application No. 10/087,024
Paper Dated October 17, 2003
In Reply to Office Action of March 26, 2003
Attorney Docket No. 702-020310

REMARKS

This Amendment is supplemental to the Amendment filed July 28, 2003. Claims 1-14 are currently pending in this application. New claim 15 has been added. Claim 15 sets forth a subset of the invention as already claimed in claim 11. No new matter has been added. In view of this amendment and of the following remarks, Applicants believe that all the asserted rejections are in condition for withdrawal and all the claims are in condition for allowance.

Claims 1, 2 and 7-10 stand rejected under the judicially created doctrine of double patenting over claims 1-15 of U.S. Patent No. 6,242,381. The undersigned is continuing to explore whether a terminal disclaimer may be filed with respect to United States Patent No. 6,242,381, and if so shall file it as soon as possible.

Claims 3-6 stand rejected under 35 U.S.C. 102(a), (b), and (e) as assertedly being anticipated by Kisfaludy et al. Claims 3-6 stand rejected under 35 U.S.C. 103(a) as assertedly being unpatentable over either the combined teachings of Szejtli et al. and Agri-tek, or the combined teachings of Fox et al., Ashmead, Inst, and Schneider et al.

Applicants overcome these rejections first by pointing out that claims 1-2 continue to define over the prior art for the same reasons which were given in United States Patent Application No. 08/981,110, now issued United States Patent No. 6,242,381, reiterated below. The claimed method includes the steps of 1) increasing the sensitivity of a plant and/or plant parts to the activity of plant growth regulators (PGRs) by administration or application of one or more means which results in a defensive response in the plant, and 2) administering PGRs to the plant. The purpose of the administration or application of the "means which results in a defensive response in the plants," i.e., an elicitor, is to sensitize the plant or plant part(s) to the PGRs. None of the prior art references identified above -- nor any of the rejections -- addresses this essential first step, and so not only are the present claims non-obvious over the aggregated prior art, a proper *prima facie* case of obviousness has not been made.

The rejection of claims 3-6 for anticipation by Kisfaludy et al. (U.S. Patent No. 3,873,510) is respectfully traversed. The Kisfaludy patent is not directed to plant growth metabolism regulators at all, but is directed to pharmaceutical peptides having the complete ACTH (adrenocorticotropic-hormonal) sequence. By contrast, claims 3-6 are limited by their

Application No. 10/087,024
Paper Dated October 17, 2003
In Reply to Office Action of March 26, 2003
Attorney Docket No. 702-020310

preambles, which give life and meaning thereto, to "plant metabolism regulators," which are not disclosed by Kisfaludy or any other prior art reference. Nor are claims 3-6 obvious over the aggregated prior art cited by the Examiner, because the particular plant metabolism regulators are not taught or suggested by any of the prior art or all of it taken together.

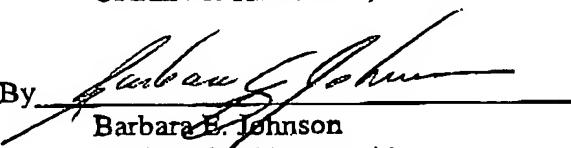
Additionally, the invention as separately claimed in new claims 11-14 inheres not only in increasing the sensitivity of a plant and/or plant parts to the activity of PGRs by administration or application of one or more means which result in a defensive response in the plant, but also in optimizing the activity of the PGRs by linking the PGRs to a particular stimulatory compound, namely, tertiary-butyloxycarbonyl aminoxyacetic acid, benzyloxycarbonyl aminoxyacetic acid, N,N' (diaminoxyacetic acid) ethylenediamine, N,N' (di-tert-butyloxycarbonylaminoxyacetic acid), propionic aminoxyacetic acid, 1-N-indole-3-hexanoic acid, indoleacetic acid-N-conjugate with bovine serum albuminate, indole butyric acid-N-conjugate with bovine serum albuminate, or indoleacetic acid-C-conjugate with bovine serum albuminate. Applicants submit, therefore, that the essential feature of claims 11-14 inheres in optimizing the activity of PGRs by linking them to particular elicitor and plant growth stimulatory compounds. The linkage of PGRs to the specific elicitor and stimulatory compounds of the claimed invention results in enhanced and prolonged levels of PGR activity. Kisfaludy et al. neither teach nor suggest the linkage of a plant growth regulator compound to such compounds, thus Kisfaludy et al. do not anticipate Applicants' invention as now claimed. Moreover, none of Szejtli et al. and Agri-tek, or Fox et al., Ashmead, Inst, and Schneider et al., alone or in combination, teach or suggest the chemical modification of PGRs via linkage to the specific elicitor and/or plant growth stimulatory compounds of the present invention. The chemical modification of PGRs to the particular elicitors and/or stimulatory compounds of the separately claimed invention is responsible for the new and unexpected properties of the linked PGRs, i.e., enhanced and prolonged plant growth regulator activity.

Application No. 10/087,024
Paper Dated October 17, 2003
In Reply to Office Action of March 26, 2003
Attorney Docket No. 702-020310

For all the foregoing reasons, claims 1-15 are patentable over the cited prior art and in condition for allowance. Reconsideration of the rejections and allowance of pending claims 1-15 are respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.

By 

Barbara E. Johnson
Registration No. 31,198
Attorney for Applicants
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com